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**UNITED STATES BANKRUPTCY COURT**  
**FOR THE DISTRICT OF NEVADA**

In re:  
RODEO CREEK GOLD INC., *et al.*,<sup>1</sup>

☒ Affects All Debtors.

Case No. BK-13-50301 (MKN)  
Chapter 11  
Jointly Administered

**OBJECTION TO CURE AMOUNT,  
AND LIMITED OBJECTION TO SALE**

Date: May 2, 2013  
Time: 1:30 p.m.

Redburn Tire Company ("Redburn Tire"), by its counsel, hereby objects to the Cure Amount to be paid to Redburn Tire as set forth by the Debtors on Exhibit "B" to the *Notice of Possible Sale, Assumption and Assignment of Certain Unexpired Leases and Executory Contracts and Sale Hearing* [Docket No. 121], the *Supplemental Notice of Possible Sale, Assumption and Assignment of Certain Unexpired Leases and Executory*

<sup>1</sup> The Debtors in these chapter 11 cases are: Rodeo Creek Gold Inc., Antler Peak Gold Inc., Hollister Venture Corp., and Touchstone Resources Company.

1 *Contracts and Sale Hearing* [Docket No. 154], and the *Second Supplemental Notice of*  
 2 *Possible Sale, Assumption and Assignment of Certain Unexpired Leases and Executory*  
 3 *Contracts and Sale Hearing* [Docket No. 354] (collectively “Cure Notice”). Additionally,  
 4 Redburn Tire objects to the proposed sale of its collateral free and clear of liens unless  
 5 Redburn Tire’s secured claim is paid in full from the sale of its collateral.<sup>2</sup> This objection  
 6 is supported by the *Declaration of Donald Leffler in Support of Objection to Cure*  
 7 *Amount, and Limited Objection to Sale* (the “Leffler Declaration”). Pursuant to LR  
 8 9014.2, Redburn Tire consents to the entry of a final order or judgment by the bankruptcy  
 9 judge if it is determined that the bankruptcy judge, absent consent of the parties, cannot  
 10 enter final orders or judgment consistent with Article III of the United States  
 11 Constitution.

12 In conjunction with the proposed auction sale of substantially all of the Debtors’  
 13 assets and the intention of the Debtors to assume and assign the contracts between the  
 14 Debtors and Redburn Tire, the Debtors have asserted in the Cure Notice that the Cure  
 15 Amount due and payable to Redburn Tire is \$105,563.06 (“Debtors’ Cure Amount”).  
 16 However, the Debtors’ Cure Amount is inaccurate and understated.

17 The actual amount due Redburn Tire for the unpaid balance for tires purchased by  
 18 the Debtors from Redburn Tire is \$151,495.72 (“Correct Cure Amount”). The Correct  
 19 Cure Amount is the amount that must be paid to Redburn Tire upon the assumption and  
 20 assignment of the contracts between the Debtors and Redburn Tire.<sup>3</sup> Attached to the  
 21 Leffler Declaration as Exhibit A are true and correct copies of the associated invoices  
 22 demonstrating the Correct Cure Amount.

23 Additionally, Redburn Tire holds perfected purchase-money security interests in  
 24 all of the tires purchased by the Debtors from Redburn Tire and that are described in the

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 26 <sup>2</sup> See Sale Motion, Docket No. 16.

27 <sup>3</sup> Even the Debtors appear to acknowledge that the Debtors’ Cure Amount is incorrect. In the  
 28 Debtors’ recently filed Schedules [Docket No. 253, Page 105], **the Debtors acknowledge that Redburn Tire is owed \$141,890.40.**

1 Invoices listed in Exhibit A hereto. On November 1, 2012, the Debtor, Rodeo Creek Gold  
2 and Redburn Tire entered into that Security Agreement and Assignment of Accounts, a  
3 true and correct copy of which is attached to the Leffler Declaration as Exhibit B. Under  
4 the Security Agreement, Rodeo Creek Gold granted to Redburn Tire a security interest in  
5 all of the tires purchased by Rodeo Creek Gold. That purchase money security interest  
6 was duly perfected by the filing of the Financing Statement with the Secretary of State of  
7 the State of Nevada, on December 17, 2012. A true and correct copy of the foregoing  
8 financing statement is attached to the Leffler Declaration as Exhibit C.

9 As the holder of a perfected purchase-money security interest in the tire collateral,  
10 Redburn Tire has priority over all other secured parties asserting interests in that  
11 collateral, including, without limitation, Credit Suisse AG and related lenders. UCC § 9-  
12 324 (NRS § 104.9324). As a result, Redburn Tire is entitled to receive the Correct Cure  
13 Amount from any sale proceeds before any distributions are made to other secured  
14 parties. Redburn Tire hereby objects to any distribution of sale proceeds to other secured  
15 parties without first satisfying the purchase money secured obligations due Redburn  
16 Tire.<sup>4</sup>

17 Therefore, Redburn Tire objects to the Cure Notice and Debtor's Cure Amount. If  
18 the Debtors proceed with the sale of assets, Redburn Tire is entitled to receive either from  
19 the sale proceeds or otherwise the Correct Cure Amount, which is not less than  
20 \$151,495.72.

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26 <sup>4</sup> Debtors suggest in the Sale Motion that even if the sale proceeds are insufficient to satisfy the  
27 amounts due all secured creditors (including Redburn Tire), the Court can still authorize the sale  
28 of the assets free and clear of liens. However, that position is directly contrary to the controlling  
authority in the 9<sup>th</sup> Circuit. See *Clear Channel Outdoor, Inc. v. Knupfer (In re PW, LLC)*, 391  
B.R. 25 (9th BAP 2008).

1 Dated: April 10, 2013.

2 GORDON SILVER

3 */s/ Matthew C. Zirzow*

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